



MINUTES

Criminal Code Reorganization Study Committee

January 15, 2009

MEMBERS PRESENT:

Senator Keith Kreiman, Co-chairperson

Representative Kurt Swaim, Co-chairperson
Representative Clel Baudler

Public Members:

Mr. Dave Erickson

Mr. Clarence Key, Jr. (Executive Director,
Iowa Board of Parole) on behalf of

Ms. Elizabeth Robinson

Honorable Michael Mullins

Ms. Erica Nichols (Drake University law
student) on behalf of Mr. Bob Rigg

Ms. Jean Schlichtemeier

Ms. Pamela Summers

Ms. Mary Tabor (Director of the Iowa Criminal
Appeals Division, Office of the Attorney
General) on behalf of Mr. Thomas H. Miller

MEETING IN BRIEF

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Organizational staffing provided
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Minutes prepared by: Rachele
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- I. **Procedural Business**
- II. **Subcommittee Updates**
- III. **Limited Jurisdiction Task Force**
- IV. **Other Committee Discussion Recommendations**
- V. **Materials Filed With the Legislative Services Agency**



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I. Procedural Business

Call to Order. Co-chairperson Kreiman called the meeting of the Criminal Code Reorganization Study Committee to order at 10:10 a.m.

Committee Business. Upon motion, the Committee approved the draft minutes from the September 8, 2008, meeting of the Committee.

Next Meeting. The next meeting of the Committee is scheduled for May 21, 2009, at 10:00 a.m. in the Supreme Court Chamber (Room 103) at the State Capitol.

Adjournment. The meeting was adjourned at 11:30 a.m.

II. Subcommittee Updates

A. Foundational Provision Subcommittee

Co-chairperson Swaim stated that Professor Jim Tomkovicz and his research assistants and other members of the subcommittee have worked diligently throughout the legislative interim comparing the foundational provisions in the Iowa Criminal Code with the Model Penal Code foundational provisions, and he looks forward to Professor Tomkovicz's presentation on the work of the Committee at a later date. He noted that the work of the subcommittee is not yet complete but that the subcommittee has made several recommendations with the goal of enhancing public safety. Both Co-chairperson Swaim and Co-chairperson Kreiman agreed that the work of this subcommittee will be the basis for the work of the other subcommittees.

Committee discussion specifically focused on the need to develop a general statute relating to the law of criminal attempt. Judge Mullins noted he has struggled with the definition of attempt as the definition of attempt is dependent on the particular crime in question and does not always mean the same thing.

B. Sentencing Subcommittee

Judge Mullins stated that the subcommittee's charge is very broad, and there are many exceptions and variations involved in sentencing laws and practices. He noted the subcommittee has looked at how other states are addressing sentencing issues. The subcommittee chose not to recommend that a sentencing commission be established; however, they unanimously voted to further study the possibility of establishing a public safety advisory committee that would systematically review existing criminal law, sentencing, and procedure, and that would recommend specific changes to enhance public safety. Committee discussion centered on the membership, structure, and duties of such a committee.

Judge Mullins stated that the subcommittee will continue to evaluate the establishment of such an advisory committee that would specifically consider the proportionality of offenses and punishments, charging alternatives available to prosecutors, rates of recidivism, resources available to the state, incarceration and release rates, and the rights and safety concerns of crime



victims. The Committee unanimously agreed that the subcommittee should continue its work, with the goal of making final recommendations in 2009.

C. Reorganization Subcommittee

The Honorable Michael Newmeister, Senior Associate Judge for the Sixth Judicial District and Chairman of the Charge Code Consolidation Project, spoke to the Committee about recommendations submitted by the Reorganization Subcommittee relating to Criminal Code sections identified by the Criminal Justice Information System (CJIS) Advisory Council as being ambiguous, duplicative, and confusing. The Committee discussed recommendations relating to reclassifying certain criminal offenses that are currently classified as nonscheduled offenses as simple misdemeanors. The Committee agreed to request both the Senate and House Judiciary Committees to draft bills reclassifying certain nonscheduled traffic-related offenses as simple misdemeanors.

Ms. Erica Nichols, a Drake University law student, presented a bill draft she worked on at the request of the subcommittee restructuring Iowa Code Section 321J.2 relating to criminal and administrative penalties of Iowa's operating while intoxicated law. Ms. Nichols worked on the bill draft with Mr. Nick Bailey, a Drake University law student, and Professor Robert Rigg. Ms. Nichols emphasized the bill draft was intended as a nonsubstantive rewrite of Code Section 321J.2. Committee discussion proceeded about the proposal. The Committee agreed to request the House and Senate Judiciary Committees to request the Legislative Services Agency to draft a bill based upon the draft submitted to the Committee. The Committee also agreed that the subcommittee continue work on a proposal rewriting Code Chapter 124 (controlled substances).

D. Specific Crimes Subcommittee

Co-chairperson Swaim reported on behalf of Representative Rick Olson that the Specific Crimes Subcommittee is waiting to meet until certain work of the other subcommittees is complete and thus a report to the Committee was not submitted. Co-chairperson Kreiman noted that if the Committee recommends the establishment of a public safety advisory committee, the public safety advisory committee may be the body responsible for making recommendations relating to revisions to specific crimes and the Specific Crimes Subcommittee may be discontinued.

III. Limited Jurisdiction Task Force

Co-chairperson Kreiman reported that the Limited Jurisdiction Task Force was created by the Iowa Supreme Court and made many recommendations about the office of magistrate and magistrate jurisdiction. He further reported the General Assembly is awaiting the final approval of the task force recommendations by the Judicial Council.

IV. Other Committee Discussion Recommendations

The Committee agreed to request a change to the House and Senate rules that would require legislation containing a criminal penalty be reviewed by the Judiciary Committee of each chamber



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prior to enactment. The Committee also agreed to request the Legislative Council permit the Committee to continue the work of the Committee for two additional years.

V. Materials Filed With the Legislative Services Agency

The following materials listed were distributed at or in connection with the meeting and are filed with the Legislative Services Agency. The materials may be accessed from the <Additional Information> link on the Committee's Internet web page:

<http://www.legis.state.ia.us/asp/Committees/Committee.aspx?id=211>.

1. Summary of OWI Proposal–Drake University Law School.
2. Drake University Law School OWI Proposal.
3. Public Safety Advisory Board Proposal.
4. Latest CJIS Recommendations.
5. Limited Jurisdiction Task Force Recommendations.

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